

Central Intelligence Agency



Washington D.C. 20505

OLL 86-0262/1
27 January 1986

[Redacted]
Assistant General Counsel
National Security Agency
Fort Meade, MD

STAT

Dear [Redacted]

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I am enclosing for your review our proposed amendment to H.R. 3378, "The Electronic Communication Privacy Act of 1985." Our proposal would amend Section 2511(2)(f) of Title 18, United States Code by broadening the exemption to include activities relating to the acquisition of foreign intelligence information from foreign electronic communication systems. This proposal will ensure that the bill will not call into question the legality of intelligence operations designed to access foreign computers.

As you recall, our amendment is very similar to that which you proposed several weeks ago and hopefully will satisfy the Department of Justice's concern that the intelligence exemption be limited in scope. I would appreciate receiving your comments on this proposed amendment by 31 January 1986.

Sincerely,

STAT

[Redacted]
Legislation Division
Office of Legislative Liaison

Enclosures

PROPOSED AMENDMENT

Sec. 101 (b) (2)-- Section 2511(f) of title 18, United States Code, is amended by inserting after the phrase "shall be deemed to affect" the phrase "activities relating to the" and after the phrase "foreign intelligence information from international or foreign communications" the phrase "or from a foreign electronic communication system".

SECTIONAL ANALYSIS

The purpose of this proposed amendment is to make clear that the prohibitions contained in Section 102 (a) of the bill on activities relating to accessing electronic communication systems without authorization are not intended to restrict authorized intelligence activities conducted by a person carrying out official duties who is employed by, assigned to or acting for an agency within the intelligence community. Authorized intelligence activities are those which are consistent with Executive Order 12333 or its successor orders, taking into account the Constitution of the United States, relevant statutes, other Executive Orders and Presidential directives.

CHANGES IN EXISTING LAW

18 U.S.C. 2511 (2) (f)

(f) Nothing contained in this chapter or section 705 of the Communications Act of 1934, shall be deemed to affect activities relating to the acquisition by the United States Government of foreign intelligence information from international or foreign communications or from a foreign electronic communication system by a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, and procedures in this chapter and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire and oral communications may be conducted.